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8 **IN THE UNITED STATES DISTRICT COURT**
9 **FOR THE EASTERN DISTRICT OF CALIFORNIA**
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11 JOSEPH PUCKETT,

CASE NO. CV F 05-0277 LJO DLB

12 Plaintiff,

**ORDER ON PLAINTIFF'S
RECONSIDERATION MOTION**
(Doc. 93.)

13 vs.

14 CHIEF OF POLICE DYER,
15 et al.,

16 Defendants.
_____ /

17 Plaintiff Joseph Puckett ("Mr. Puckett") seeks reconsideration of dismissal of this claims based
18 on his disobedience of orders to appear at an independent medical examination ("IME") and to sign a
19 release for Social Security Administration ("SSA") records. This Court DENIES reconsideration in
20 absence of this Court's clear error.

21 Reconsideration is appropriate when the district court is presented with newly discovered
22 evidence, committed clear error, or there is an intervening change in controlling law. *School District*
23 *No. 1J, Multnomah County, Oregon v. A C and S, Inc.*, 5 F.3d 1255, 1263 (9th Cir. 1993), *cert. denied*,
24 512 U.S. 1236, 114 S.Ct. 2742 (1994). "Motions for reconsideration serve a limited function: to correct
25 manifest errors of law or fact or to present newly discovered evidence." *Publisher's Resource, Inc. v.*
26 *Walker Davis Publications, Inc.*, 762 F.2d 557, 561 (7th Cir. 1985) (quoting *Keene Corp. v. International*
27 *Fidelity Ins. Co.*, 561 F.Supp. 656, 665-666 (N.D. Ill. 1982), *aff'd*, 736 F.2d 388 (7th Cir. 1984)
28 (emphasis in original)); see *Novato Fire Protection Dist. v. United States*, 181 F.3d 1135, 1142, n. 6 (9th

1 Cir. 1999), *cert. denied*, 529 U.S. 1129, 120 S.Ct. 2005 (2000). Reconsideration should not be used “to
2 argue new facts or issues that inexcusably were not presented to the court in the matter previously
3 decided.” See *Brambles USA, Inc. v. Blocker*, 735 F.Supp. 1239, 1240 (D. Del. 1990). Under this
4 Court’s Local Rule 78-230(k), a party seeking reconsideration must demonstrate “what new or different
5 facts or circumstances are claimed to exist which did not exist or were not shown upon such prior
6 motion, or what other grounds exist for the motion” and “why the facts or circumstances were not shown
7 at the time of the prior motion.”

8 In his reconsideration papers, Mr. Puckett wishes “to apologize for words used” and appears to
9 excuse is disobedience of discovery orders by claiming that he ultimately submitted to an IME and
10 signed an SSA records release. Mr. Puckett ignores that he failed comply with deadlines to do so and
11 unreasonably delayed to prejudice defendants. The key is not that Mr. Puckett submitted to an IME and
12 signed an SSA records release. The key is that he delayed so long after court ordered deadlines to
13 prevent defendants to address and defend Mr. Puckett’s claims meaningfully. As such, Mr. Puckett has
14 not satisfied a necessary requirements for reconsideration, in this case, this Court’s clear error.

15
16 IT IS SO ORDERED.

17 **Dated: February 28, 2008**

/s/ Lawrence J. O'Neill
UNITED STATES DISTRICT JUDGE